

Message Text

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ACTION EB-07

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PASS EXPORT-IMPORT BANK

E.O. 11652: N/A
TAGS: EFIN, CS
SUBJECT: LEGAL ACTION ON LATIN AMERICAN BANK GUARANTEE

SUMMARY. THE EXPORT-IMPORT BANK AND U.S. COMMERCIAL BANKS WHICH ARE CREDITORS OF THE INSOLVENT LATIN AMERICAN BANK WILL BE PLEASED TO LEARN THAT AN IMPORTANT LEGAL STEP HAS BEEN TAKEN TOWARD COLLECTING ON THE GUARANTEES PREVIOUSLY GIVEN BY THE OWNERS OF THE BANK, ARNOLDO AND ALLAN RODRIGUEZ, AND THEIR GRUPO PROIN COMPANIES. ALTHOUGH THE LEGAL ACTION COULD THEORETICALLY BE USED TO PUT THE RODRIGUEZ BROTHERS AND 17 GRUPO PROIN COMPANIES INTO BANKRUPTCY, THE INTENT IS NOT TO DO SO BUT ONLY TO USE THE LEGAL ACTION TO GAIN ACCESS FOR THE CREDITORS TO CERTAIN ASSETS OF THE RODRIGUEZ BROTHERS WHICH SHOULD BE AVAILABLE TO PAY THEIR CREDITORS. CONTINUED FAVORABLE PROGRESS ON THIS PROBLEM MAY REQUIRE MEMBERSHIP BY THE EXPORT-IMPORT BANK ON THE COMMITTEE OF INTERVENORS THAT CONTROLS THE DEFUNCT LATIN AMERICAN BANK, A STEP THAT WAS ENDORSED BY THE

EXPORT-IMPORT BANK MISSION THAT RECENTLY VISITED COSTA RICA AND WAS DISCUSSED WITH THE COSTA RICAN CENTRAL BANK, WHICH WELCOMED

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THE IDSX. END SUMMARY.

1. THE COMMITTEE OF INTERVENORS OF THE LATIN AMERICAN BANK TOOK A MAJOR LEGAL STEP LAST WEEK AGAINST THE REMAINING ASSETS OF THE GRUPO PROIN AND ARNOLDO AND ALLAN RODRIGUEZ, WHO WERE THE PRINCIPAL OWNERS OF THE GRUPO PROIN AND THE INSOLVENT LATIN AMERICAN BANK. THE COMMITTEE OF INTERVENORS, ON ADVICE

OF COUNSEL, PLACED FOR COLLECTION BY THE COSTA RICAN COURTS A
\$10 MILLION BILL OF EXCHANGE OR GUARANTEE WHICH WAS
SIGNED ON
DMAY 9, 1975 BY 17 GRUPO PROIN COMPANIES AND BY ARNOLDMV
AND ALLAN RODRIGUEZ AND IS PAYABLE TO THE LATIN AMERICAN BANK.

2. THE GUARANTEE WAS GIVEN BY THE RODRIGUEZ BROTHERS TO PREVENT
THE GRUPO PROIN COMPANIES, THE LATIN AMERICAN BANK, AND
THEMSELVES FROM BEING THROWN INTO BANKRUPTCY WHEN THE INSOLVENCY
OF THE LATIN AMERICAN BANK BECAME KNOWN. BANKRUPTCY WOULD HAVE
RESULTED IN THE IRREGULAR AND FRAUDULENT ACTIVITIES OF THE
L.A.B. AND THE GRUPO PROIN UNDER THE LEADERSHIP OF THE RODRIGUEZ
BROTHERS, BEING VENTILATED IN A PUBLIC COURT AND COULD HAVE LED
TO CRIMINAL AND CIVIL ACTIONS AGAINST THE RESPONSIBLE PARTIES.

3. THE EFFECT OF THE LEGAL ACTION TAKEN LAST WEEK, PROVIDED
IT IS APPROVED BY THE COURT, COULD THEORETICALLY BE TO THROW
THE RODRIGUEZ BROTHERS AND THE GRUPO PROIN COMPANIES, INCLUDING
TWO FINANCIERS, INTO BANKRUPTCY, BUT SUCH IS NOT THE INTENT
OF THE COMMITTEE OF INTERNORS. THE INTENT IS TO STRENGTHEN
THE HAND OF THE CREDITORS AGAINST THE RODRIGUEZ BROTHERS AND
THEREBY IMPROVE THE CHANCES OF
COLLECTING A PORTION OF THE AMOUNTS
STILL OWED TO UNSECURED CREDITORS OF THE L.A.B., WHICH AMOUNT
TO SOME 40 PERCENT OF THEIR OUTSTANDING LOANS TO THE DEFUNCT
L.A.B. INITIALLY, THE COMMITTEE OF INTERVENORS PLANS TO MOCI
AGAINST TWO RODRIGUEZ ASSETS -- SOME LAND BELONGING TO
ALMACENES GENERAL DEPOSITOS DE OESTE, AND THE YACHT, "EL TOR-
TUGUERO."

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4. THE YACHT HAS BEEN THE SUBJECT OF YET ANOTHER IRREGULAR
TRANSACTION BY THE GRUPO PROIN. A GRUPO PROIN COMPANY,
(TRANSBORDADORES), RECENTLY SPENT \$20,000 TO REPAIR THE YACHT
AND THEN SOLD IT DESPITE THE FACT THAT THE L.A.B. HOLDS A
\$50,000 LIEN AGAINST THDNYACHT (A VIOLATION OF COSTA RICAN
LAW). THE SALE TOOK PLACE WITH THE APPARENT ACQUIESCENCE OF THE
BANK OF CARTAGO, A STATE-OWNED COMMERCIAL BANK, WHICH IS
ALLEGEDLY SUPERVISING THE OPERATIONS OF GRUPO PROIN COMPANIES
WHICH HAVE NOT PAID THEIR DEBTS TO THE CREDITOR BANKS. THE
ACTION, ACCORDING TO L.A.B. MANAGER, ROGER LECLERC, ALSO INVOLVED
THE L.A.B.'S LAWYER WHO CEDED L.A.B.'S CONTROL OVER THE YACHT
(APPARENTLY TO THE BANCO DEHVCARTAGO) THE DAY BEFORE THE SALE
OF THE HACHT, AND EARNED A \$10,000 COMMISSION ON THE SALE.

5. A PROBLEM WITH THE LEGAL ACTION TAKEN BY THE COMMITTEE
OF INTERVENORS IS THAT IF IT BECOMES PUBLICLY KNOWN IT COULD
CREATE AN IMPRESSION THAT THE TWO GRUPO PROIN FINANCIERAS,
THE FINANCIERA PROIN AND THE FINANCIERA LAS AMERICAS, ARE ABOUT

TO BE THROWN INTO BANKRUPTCY, WHICH WOULD BE LIKELY TO LEAD TO A RUSH BY DEPOSITORS TO WITHDRAW THEIR DEPOSITS. THE COMMITTEE OF INTERVENORS CONSIDERED THIS PROBLEM BEFORE ACTING, AND IFSTHE PROBLEM ARISES, THEY WILL PRESIZABLY STATE PUBLICLY THAT THEY DO NOT INTEND TO BANKRUPT THE FINANCIERAS BY FILING FOR COLLECTION

AGAINST THEM. WHAT ACTION THE BANCO DE CARTAGO MIGHT TAKE IN SUCH A CASE IS UNKNOWN, BUT THE BANK IS SUPERVISING THE ACTIVITIES OF THE FINANCIERAS AND HAS STRONGLY IMPLIED IN PUBLIC ADVERTISEMENTS THAT IT STANDS BEHIND THE DEPOSITS IN THE FINANCIERAS.

6. THE ACTION TAKEN BY THE BOARD OF INTERVENORS WAS TAKEN WITH THE SUPPBPT OF THE THREE REPRESENTATIVES OF THE FOREIGN CREDITOR BANKS PLUS THREE OF THE COSTA RICAN

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MEMBERS OF THE COMMITTEE. THE REPRESENTATIVES OF THE CENTRAL BANK OF COSTA RICA AND THE BANK OF CARTAGO VOTED AGAINST. THIS REPRESENTS THE FIRST TIME THAT THE COSTA RICAN MEMBERS OF THE COMMITTEE OF INTERVENORS HAVE FAILED TO TAKE A UNITED POSITION BEHIND THE CENTRAL BANK. THE THREE COSTA RICAN MEMBERS SUPPORTING THE MAJORITY POSITION -- CARLOS LUIS MONTOYA, SUB-MANAGER OF THE BANCO ANGLO; MARIO ALBERTO ECHEVERRIA, COSTA RICAN BUSINESSMAN; AND RAFAEL CASTRO CANAS, REPRESENTATIVE OF COSTA RICAN CERTIFICATE OF DEPOSIT HOLDERS -- WERE APPARENTLY CONVINCED BY ARGUMENTS THAT NO ONE HAS YET TAKEN A FIRM STAND AGAINST THE RODRIGUEZ BROTHERS; THAT NOT TO DO SO STRONGLY WEAKENS THE CHANCES OF COLLECTING THE REMAINING DEBTS; AND THAT THE MEMBERS OF THE COMMITTEE OF INTERVENORS HAVE A LEGAL OBLIGATION TO

DO EVERYTHING POSSIBLE TO COLLECT THESE DEBTS AND COULD BE PERSONALLY LIABLE IF THEY FAIL TO DO SO.

7. COMMENTS: THE LEGAL ACTION TAKEN BYTHE COMMITTEE OF INTERVENORS REPRESENTS THE FIRST SIGNIFICANT STEP TOWARD ATTEMPTING TO MOVE AGAINST THE ASSETS OF THE RODRIGUEZ BROTHERS WHICH SHOULD BE AVAILABLE TO SETTLE IN PART THEIR DEBTS TO CREDITOR INSTITUTIONS, INCLUDING THE EXPORT-IMPORT BANK AND MANY U.S. COMMERCIAL BANKS. THE STEP WAS ONLY POSSIBLE BECAUSE STLE OF THE COSTA RICAN MEMBERS OF THE COMMITTEE OF INTERVENORS BROKE LIMITED OFFICIAL USE

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WITH THE CENTRAL BANK REPRESENTATIVE WHO HAS SERVED WITHIN THE COMMITTEE MAINLY AS A PROTECTOR OF THE RODRIGUEZ BROTHERS AND HAS PREVENTED EVERY PAST ATTEMPT TO MOVE AGAINST THE ASSETS OF THE RODRIGUEZ BROTHERS.

8. THE EVENTS DESCRIBED IN THIS MESSAGE ALSO SHOW THAT THE RODRIGUEZ BROTHERS CONTINUE TO EXERCISE A CONSIDERABLE DEGREE OF CONTROL OVER THEIR GRUPO PROIN COMPANIES THAT HAVE BEEN INTERVENED BY THE BANCO DE CARTAGO AND ARE THEORETICALLY UNDER THE CONTROL OF THAT INSTITUTION. MOREOVER, THE YACHT INCIDENT IN PARTICULAR, SUGGESTS THAT IRREGULAR ACTIVITIES ARE STILL TAKING PLACE.

9. THE MOST IMPORTANT STEP THAT COULD BE TAKEN TO PROTECT THE INTERESTS OF THE CREDITOR INSTITUTIONS WOULD BE FOR THE EXPORT-IMPORT BANK TO BECOME REPRESENTED ON THE COMMITTEE OF INTERVENORS. BECAUSE OF THE STRONG VALUE THE GOVERNMENT OF COSTA RICA AND THE CENTRAL BANK ATTACH TO MAINTAINING EXCELLENT CREDIT RELATIONS WITH THE EXPORT-IMPORT BANK, THE CENTRAL BANK REPRESENTATIVE WOULD BE FORCED TO CEASE DIRECTING HIS ACTIVITIES TOWARD THE PROTECTION OF THE RODRIGUEZ BROTHERS AND TURN HIS EFFORTS TOWARD SERVING THE INTERESTS OF THE CREDIT INSTITUTIONS, INCLUDING THE EXPORT-IMPORT BANK.

10. HAVING A MAJORITY OF COSTA RICANS ON THE COMMITTEE OF INTERVENORS WAS LOGICAL WHEN THE COMMITTEE WAS SET UP, BECAUSE ITS MAIN TASK WAS TO SECURE THE COOPERATION OF THE COSTA RICAN CENTRAL BANK AND THE COSTA RICAN STATE-OWNED COMMERCIAL BANKS IN CARRYING OUT THE BAILOUT ARRANGEMENT THEY HAD AGREED TO UNDERTAKE. THAT ARRANGEMENT HAS NOW BEEN CARRIED OUT AND HAS PROVIDED FOR A 62 PER CENT SETTLEMENT ON THE DEBTS DUE BY L.A.B. TO THE CREDITOR INSTITUTIONS. THE MAJOR REMAINING JOB OF THE L.A.B., UNDER THE CONTROL OF THE COMMITTEE OF INTERVENORS, IS TO ATTEMPT TO COLLECT ON OTHER AVAILABLE GRUPO PROIN AND RODRIGUEZ BROTHERS ASSETS IN ORDER TO MAKE A PARTIAL PAYMENT ON THE REMAINING 38 PER CENT OF THE DEBT DUE TO THE CREDITOR

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INSTITUTIONS.

11. THE IDEA OF THE EXPORT-IMPORT BANK JOINING THE COMMITTEE OF INTERVENORS WAS DISCUSSED BY THE EMBASSY WITH THE EXPORT-IMPORT BANK MISSION THAT VISITED COSTA RICA FROM APRIL 17-20. MRS. MARGARET KAHLIFF, MEMBER OF THE EXPORT-IMPORT BANK BOARD OF DIRECTORS, AND HEAD OF THE MISSION, AGREED THAT THIS WOULD BE A VERY POSITIVE STEP AND PERHAPS ESSENTIAL TO PROTECT EXPORT-IMPORT BANK'S INTERESTS. SHE SUBSEQUENTLY DISCUSSED THE MATTER WITH BERNAL JIMENEZ, EXECUTIVE PRESIDENT OF THE CENTRAL BANK, WHO WELCOMED THE IDEA OF THE EXPORT-IMPORT BANK'S PARTICIPATION ON THE COMMITTEE OF INTERVENORS. KILDAY

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